

THE OFFICE OF REGULATORY STAFF

DIRECT TESTIMONY

OF

CHRISTOPHER J. ROZYCKI

FEBRUARY 27, 2018



DOCKET NO. 2017-354-C

**COMPLAINT AND PETITION FOR DECLARATORY ORDER
OF PAY TEL COMMUNICATIONS, INCORPORATED,
COMPLAINANT/PETITIONER V. LATTICE INCORPORATED,
DEFENDANT/RESPONDENT**

**DIRECT TESTIMONY OF
CHRISTOPHER J. ROZYCKI
ON BEHALF OF
THE SOUTH CAROLINA OFFICE OF REGULATORY STAFF
DOCKET NO. 2017-354-C
IN RE: COMPLAINT AND PETITION FOR DECLARATORY ORDER OF
PAYTEL COMMUNICATIONS, INCORPORATED,
COMPLAINANT/PETITIONER V. LATTICE INCORPORATED,
DEFENDANT/ RESPONDENT**

Q. PLEASE STATE YOUR NAME AND OCCUPATION.

A. My name is Christopher J. Rozycki. I am employed by the State of South Carolina as the Director of Telecommunications for the South Carolina Office of Regulatory Staff ("ORS").

Q. PLEASE STATE YOUR EDUCATIONAL BACKGROUND AND EXPERIENCE.

A. I have over thirty (30) years of experience. I have more than twenty (20) years in telecommunications business and regulation and nearly ten (10) years in the regulation of energy industries.

My testimony and advocacy has covered issues involving finance, economics, rate-of-return, competitive entry, intercarrier compensation and access. I have also been involved with the startup, development, and funding of telecommunications companies.

I hold a master's degree in Economics from George Mason University in Fairfax, Virginia and a bachelor's degree in Economics from Georgetown University in Washington, DC.

Q. HAVE YOU TESTIFIED PREVIOUSLY BEFORE THE PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA ("COMMISSION")?

A. Yes.

Q. HAVE YOU TESTIFIED PREVIOUSLY ON TELECOMMUNICATIONS MATTERS BEFORE OTHER STATE PUBLIC SERVICE COMMISSIONS?

A. Yes. I have testified on a variety of telecommunications issues in Alabama, Delaware, Florida, Georgia, Louisiana, Mississippi, New York, North Carolina, Pennsylvania, Tennessee, Vermont, and Virginia.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?

A. The purpose of my testimony is to provide the position and recommendations of ORS in response to the petition and complaint of PayTel Communications, Inc. in this case. ORS provides this information to help the Commission reach a determination in this proceeding.

Q. CAN YOU SUMMARIZE WHY ORS HAS FILED A POSITION AND RECOMMENDATION IN THIS COMPLAINT CASE?

A. Yes. Simply stated, ORS believes that Lattice, Incorporated (Lattice) is required by Commission Order No. 1991-122 to hold a certificate of public convenience and necessity (CPCN) issued by the Commission prior to commencing operations from a confinement facility in South Carolina. Lattice does not hold a South Carolina CPCN, and it appears that Lattice is currently providing telephone service in two confinement facilities in South Carolina.

Q. ARE INMATE SERVICE PROVIDERS LIKE PAYTEL AND LATTICE REQUIRED TO OBTAIN AND MAINTAIN A CPCN IN SOUTH CAROLINA?

1 **A.** Yes. Commission Order No. 1991-122 requires all inmate service providers
2 operating in South Carolina to obtain and maintain a CPCN from this Commission.

3 **Q.** **IN HIS TESTIMONY, MR. J. VINCENT TOWNSEND INDICATED THAT**
4 **LATTICE HAD FILED AN APPLICATION FOR A CPCN IN 2015 IN DOCKET**
5 **NO. 2015-413-C. IS THIS CORRECT?**

6 **A.** Yes. Lattice did file an application for a CPCN in 2015 but later withdrew their
7 application. ORS has not communicated with Lattice since it withdrew its application.

8 **Q.** **DID ORS HAVE ANY CONCERNS WITH THE APPLICATION FILED BY**
9 **LATTICE?**

10 **A.** Yes, ORS was concerned about the company's poor financial condition, that the
11 company might be unable to meet its financial obligations at that time.

12 **Q.** **WHEN LATTICE WITHDREW ITS APPLICATION DID IT REQUEST ANY**
13 **SORT OF EXEMPTION FROM ITS REGULATORY OBLIGATIONS IN SOUTH**
14 **CAROLINA?**

15 **A.** No, Lattice did not request an exemption nor indicate its future business or
16 operational plans in South Carolina.

17 **Q.** **DID ORS KNOW THAT LATTICE WAS ACTIVELY BIDDING ON INMATE**
18 **FACILITY CONTRACTS OR THAT IT WAS PROVIDING SERVICE TO**
19 **CONFINEMENT FACILITIES IN SOUTH CAROLINA?**

20 **A.** No. Until PayTel filed this complaint, ORS was unaware that Lattice was providing
21 service at any inmate facility in this state.

22 **Q.** **DOES ORS HAVE ANY RECOMMENDATIONS AS TO WHAT THE**
23 **COMMISSION SHOULD DO IN RESPONSE TO THE PAYTEL COMPLAINT?**

1 **A.** Yes, ORS has several recommendations:

2 First, that the Commission require Lattice to resubmit its application for a CPCN
3 to operate as an IXC and inmate service provider in South Carolina;

4 Second, if the Commission approves the application of Lattice for a CPCN, then
5 the Commission should require Lattice to post a bond as required by S.C. Code Ann. Regs.
6 103-607 (2012);

7 Third, if the Commission does not approve the application of Lattice for a CPCN,
8 then the Commission issue a cease and desist order;

9 Fourth, the Commission should notify the inmate facilities where Lattice is under
10 contract and providing service that it is in violation of South Carolina law and operating a
11 telephone utility without proper authority (CPCN) from the Public Service Commission of
12 South Carolina;

13 Fifth, the Commission may wish to notify (or request that ORS notify) all South
14 Carolina inmate or confinement facilities, that inmate service providers in South Carolina
15 are Telephone Utilities under South Carolina law and must possess a CPCN to operate in
16 the State; and

17 Sixth, the Commission may wish to request that ORS post a list of all inmate service
18 providers authorized (certificated) to operate in South Carolina.

19 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

20 **A.** Yes, it does.